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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91189418
Party	Plaintiff Speed Channel, Inc.
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Date	09/28/2009
Attachments	2DZ8712.pdf (11 pages)(523655 bytes)

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Application Serial Nos.:	77476098 77497086 77476107 77478035
Filed:	May 15, 2008 June 12, 2008 May 15, 2008 May 19, 2008
Marks:	SPEEDVISION SPEEDVISION SPEEDVISION HD SPEEDVISION (and Design)
Publication Date:	November 25, 2008 (for all opposed applications)

SPEED CHANNEL, INC.
Opposer,

v.

PHOENIX 2008 LLC
Applicant.

Opposition No. 91189418

**OPPOSER SPEED CHANNEL, INC.'S FIRST SET OF INTERROGATORIES TO
APPLICANT PHOENIX 2008 LLC**

In accordance with the provisions of Rule 33 of the Federal Rules of Civil Procedure and TBMP § 405, Opposer Speed Channel, Inc. ("Speed") hereby propounds the following interrogatories to PHOENIX 2008 LLC ("Applicant"), to be answered fully and separately in writing and under oath by Applicant, all pursuant to Rule 33 of the Federal Rules of Civil Procedure and TBMP § 405. Responses shall conform in all respects to the Federal Rules of Civil Procedure and TBMP § 405.

Instructions and Definitions:

1. As used herein, the following definitions shall apply:

- a. The term "Applicant" means PHOENIX 2008 LLC, together with Applicant's principals, shareholders, members, officers, directors, employees, agents, representatives, predecessors, successors, attorneys and any business entity owned or controlled by or under Applicant's direct or indirect control or management or otherwise acting on Applicant's behalf.
- b. The term "Applicant's Marks" mean the marks that are the subject of United States Trademark Application Serial Nos. 77476098, 77497086, 77476107 and 77478035.
- c. The terms "Speed" or "Opposer" mean Opposer Speed Channel, Inc.
- d. The term "Speed Marks" means Opposer's well-known trademarks and service marks that incorporate the term "SPEED," and that are identified in Paragraphs 5 and 6, and Exhibits A and B, of the Notice of Opposition filed in this proceeding.
- e. The term "Speed Applications" means the United States Trademark Applications for the Speed Marks identified in paragraph 6 of the Notice of Opposition filed in this proceeding. Copies of data extractions from the United States Patent and Trademark Office's TARR and TESS databases regarding the Speed Applications are annexed as Exhibit B to the Notice of Opposition filed in this proceeding.
- f. The term "Speed Registrations" shall mean the United States Trademark Registrations for the Speed Marks identified in paragraph 5 of the Notice of Opposition filed in this proceeding. Copies of data extractions from the United States Patent and Trademark Office's TARR and TESS databases regarding the Speed Registrations are annexed as Exhibit A to the Notice of Opposition filed in this proceeding.

- g. The term "Speedvision Mark" means the SPEEDVISION Mark identified in paragraph 7 of the Notice of Opposition filed in this proceeding.
- h. The term "Opposed Applications" means United States Trademark Application Serial Nos. 77476098, 77497086, 77476107 and 77478035.
- i. "Documents" or "documents and things" means those items enumerated in Rule 34 of the Federal Rules of Civil Procedure, and shall include, without limitation, writings, drawings, graphs, charts, photographs, models, prototypes, commercial goods, photo records, films, microfilms, microfiche, audio tapes, video tapes, magnetic media, optical media, and any other data compilations from which information can be obtained or translated, if necessary, by electronic devices into reasonably useable form. Any document or thing that differs from the original or another duplicate thereof because of additions and/or deletions, or any document that is a non-changed duplicate but which appears in a different file, shall be considered an original and shall be separately produced.
- j. Documents or documents and things include, but are not limited to, electronic mail ("email") and metatext.
- k. The term "identify" has the following meanings:
 - (1) When identifying a communication, "identify" means to provide:
 - (a) the exact words of the communication;
 - (b) the date of the communication;
 - (c) the identity of any other entities who have any knowledge of the communication, particularly including the entity's address and telephone number; and

(d) the exact words and date of any response to the communication.

- (2) When identifying an entity or individual, "identify" means to provide the entity's or individual's full name, business address, telephone number, the business in which the entity or individual is engaged and, if the entity is not a natural person, the person or persons at the entity who serve or served as Applicant's primary point of contact.

1. The term "You" means Applicant.
2. Each of the following interrogatories is deemed to be a continuing interrogatory, and demand is hereby made upon Applicant that, if at any later date Applicant obtains any additional facts or things or makes any assumptions or reaches any conclusions, opinions, or contentions that are different from those set forth in the answers to these interrogatories, then in such case the answers to said interrogatories shall be amended to fully set forth such further information.
3. If Applicant responds to these Interrogatories by specifying business records pursuant to Fed. R. Civ. P. 33(d), Applicant shall specify the business records in sufficient detail to permit Speed to locate and to identify, as readily as Applicant, the records from which the answer may be ascertained and shall permit Applicant reasonable opportunity to examine, audit or inspect such records and to make copies, compilations abstract or summaries. Production of the requested documents and things shall be as the materials are kept in the ordinary course of business or organized and labeled to correspond with the categories in the interrogatory and shall otherwise comply with the instruction provided in Speed's First Request For Production of Documents to Applicant.
4. If Applicant objects to any portion of an interrogatory, Applicant should respond to any

portion of the interrogatory to which Applicant does not object.

5. If Applicant objects to a request on the ground that it is too broad, please provide all requested information that Applicant concedes are relevant or reasonably calculated to lead to the discovery of admissible evidence.
6. If Applicant objects to a request on the ground that the request constitutes an undue burden, please provide all information which can be produced without causing what in Applicant's opinion would be an undue burden.
7. Certain of these Interrogatories are broad in time period or subject so as to assure that all relevant, discoverable information is obtained. If Applicant finds it necessary to make objection to an interrogatory as overbroad, burdensome, etc., then Applicant should answer the interrogatory to the degree reasonable, and Applicant should contact undersigned counsel to discuss limits on the request.

INTERROGATORIES

INTERROGATORY NO. 1:

Set forth all reasons why Applicant selected Applicant's Marks.

INTERROGATORY NO. 2:

Describe with specificity the derivation of Applicant's Marks.

INTERROGATORY NO. 3:

Set forth with specificity the reason for selecting the term "SPEEDVISION" as a term used in Applicant's Marks.

INTERROGATORY NO. 4:

State whether Applicant, or any entity acting for Applicant, is currently selling goods or providing services described in the Opposed Applications under the marks that are the subject of

the Opposed Applications in the United States and, if so, fully describe the first sale of such goods or services.

INTERROGATORY NO. 5:

Set forth all facts to support the claim that at the time Applicant filed the Opposed Applications, Applicant had a *bona fide* intent to use the marks identified in each of the Opposed Applications on each of the goods and services identified therein.

INTERROGATORY NO. 6:

Identify all third party marks (whether registered or not) of which You are aware that include the word element SPEED for goods or services in International Classes 38, 41, or either of them, within the United States.

INTERROGATORY NO. 7:

Describe in detail all uses that You made or make of the term SPEEDVISION or any marks that include the word element SPEEDVISION in connection with any goods in International Classes 38, 41, or either of them, within the United States.

INTERROGATORY NO. 8:

Identify (a) the persons who created and selected Applicant's Marks, and (b) the current employee of Applicant with the greatest knowledge concerning the selection of Applicant's Marks.

INTERROGATORY NO. 9:

Fully describe each good offered or to be offered and each service provided or to be provided under Applicant's Marks within the United States.

INTERROGATORY NO. 10:

Fully describe the trade channels for each good offered or to be offered and service provided or to be provided under Applicant's Mark within the United States.

INTERROGATORY NO. 11:

Fully describe the intended consumer for each good offered or to be offered and service provided or to be provided under Applicant's Mark within the United States.

INTERROGATORY NO. 12:

Fully describe the source of all revenues that Applicant expects to receive from each good offered or to be offered and service provided or to be provided under Applicant's Marks within the United States.

INTERROGATORY NO. 13:

Identify any good offered or to be offered and service provided or to be provided under Applicant's Marks that are not identified in the Opposed Applications.

INTERROGATORY NO. 14:

Identify all third-parties (including advertising agencies, public relations agencies or market research agencies) that Applicant has communicated with concerning the advertising, marketing, promoting or publicizing of goods or services to be sold or provided within the United States under Applicant's Marks, whether or not such third-parties are located within the United States.

INTERROGATORY NO. 15:

Describe any information requested, conducted or received by or on behalf of Applicant concerning Applicant's Marks or the Speed Marks, or goods or services offered under any such marks, including but not limited to market research relating to any likelihood of or actual confusion between the parties' respective marks.

INTERROGATORY NO. 16:

Identify all channels in which Applicant advertises or intends to advertise goods and services under Applicant's Marks within the United States.

INTERROGATORY NO. 17:

Describe in detail all facts and evidence to support Applicant's denial of any allegation in Speed's Notice of Opposition, with reference to the specific allegation(s) to which the facts and evidence relate.

INTERROGATORY NO. 18:

Describe in detail all facts and evidence to support Applicant's Affirmative Defenses to Speed's Notice of Opposition, with reference to the specific Affirmative Defense(s) to which the facts and evidence relate.

INTERROGATORY NO. 19:

To the extent You are relying upon third party marks in support of Applicant's denial of any of the allegations in Speed's Notice of Opposition, identify each third party mark and for each identify the owner, the goods, the annual sales of goods under the mark, and evidence of consumer recognition of the mark.

INTERROGATORY NO. 20:

Identify each of Applicant's officers, managers and members.

INTERROGATORY NO. 21:

If You contend that there is no likelihood of confusion between the Speed Marks and Applicant's Marks, describe in detail the basis for Your contention.

INTERROGATORY NO. 22:

Identify all documents that support or contravene Your answer to Interrogatory No. 21.

INTERROGATORY NO. 23:

Describe in detail any instances of which you are aware in which any person has referred to Opposer, or Opposer's goods and services, using the term "SPEEDVISION," from December 4, 2004, through and including the date that Applicant responds to these Interrogatories.

INTERROGATORY NO. 24:

Describe how Applicant complied with its obligations to preserve all Documents, including but not limited to electronically stored information, relevant to the issues in this case, including by identifying all steps taken and the dates such steps were taken.

INTERROGATORY NO. 25:

Identify the persons with the most knowledge about the substance of the Answers to Opposer's First Set of Interrogatories.

INTERROGATORY NO. 26

Identify all persons who provided information or documents relating to Applicant's Answers to Opposer's First Set of Interrogatories.

INTERROGATORY NO. 27:

Identify the specific person(s) who participated in the decision to file the Opposed Applications and their role.

RESPECTFULLY SUBMITTED,
Speed Channel, Inc.

Dated: June 4, 2009

BY: 

Daniel E. Bruso, Esq.
Curtis Krechevsky, Esq.

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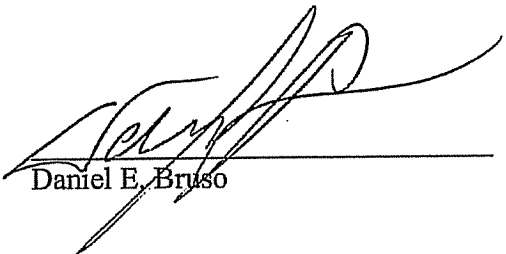
Attorneys for Opposer
Speed Channel, Inc.

Opposer's Matter Reference No.: FEG0573OPPUS

CERTIFICATE OF SERVICE

I, Daniel E. Bruso, Esq., counsel to Opposer Speed Channel, Inc. in Opposition No: 91187158, certify that, on the 4th day of June 2009, I served a copy of OPPOSER SPEED SYLVANIA, INC'S FIRST SET OF INTERROGATORIES TO APPLICANT PHOENIX 2008 LLC, via first class mail, postage prepaid, upon Applicant's attorney of record and to the additional persons identified below:

Brian J. Hurh, Esq.
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue NW
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Washington, DC 20006-3402


Daniel E. Bruso